

**ENTERED**

September 16, 2021

Nathan Ochsner, Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

US BANK TRUST, N.A., AS TRUSTEE OF THE §  
IGLOO SERIES III TRUST, §  
Plaintiff, §  
§  
§  
vs. §  
§  
MICHAEL S. DOUGHERTY, JZAVELA- §  
ARETHEA DOUGHERTY, DATTAJUSTIN §  
TOSHIHIRO DOUGHERTY-WILLIAMS, AND §  
INTERNATIONAL BANK OF COMMERCE, §  
Defendants. §

Civil Action No. 4:20-CV-01082

**ORDER**

On March 16, 2021, this Court issued a Memorandum & Order (Doc. 63) finding that US Bank was entitled to summary judgment on its judicial foreclosure claims against Jzavela-Arethea Dougherty and Dattajustin Dougherty (“Occupant Defendants”). The Court further ruled that US Bank’s lien against the property would be enforced by foreclosure by order of sale under a judgment for judicial foreclosure. On April 14, 2021, this Court entered a Final Judgment in this case (Doc. 64).

On May 3, 2021, this Court entered an Order of Sale (Doc. 66) ordering the sale of the real property and improvements located at 2534 Splintwood Court, Kingwood, Texas 77345 (“the Property”). The May 3, 2021, Order of Sale stated:

All persons occupying the Property shall turn over the keys to the Property to the U.S. Marshal and shall leave and vacate the Property permanently within 30 days of the date of this Order, each taking with them his or her personal property (but leaving all improvements, buildings, fixtures, and appurtenances to the Property). If any person fails or refuses to leave and vacate the Property by the time specified in this Order, the U.S. Marshal is authorized and directed to take all actions that are reasonably necessary to bring about the ejectment of those persons and to seize and post the Property. If any person fails or refuses to remove his or her personal property from the Property by the time specified herein, the personal

property remaining on the Property thereafter is deemed forfeited and abandoned, and the U.S. Marshal is authorized to remove it and to dispose of it in any manner they see fit.

Despite the Order of Sale, the Occupant Defendants failed to timely vacate the Property. Thus, on June 3, 2021, the U.S. Marshal removed the Occupant Defendants from the Property, and re-keyed and secured the Property (Doc. 82).

The U.S. Marshal sold the Property on July 6, 2021. On July 26, 2021, this Court confirmed the sale by an Order Confirming the Sale (Doc. 98). The Occupant Defendants have no “interests in, liens against, or claims to, the Property” (Doc. 66).

On July 12, 2021, the Court held a hearing on Plaintiff’s Motion for Contempt (Doc. 85) and Defendants’ Motion to Vacate (Doc. 89), at which it confirmed that Defendant Jzavela-Arethea Dougherty had re-entered and was occupying the Property. On July 12, 2021, this Court ordered Jzavela-Arethea Dougherty to “vacate the Property in question” (Minute Entry dated July 14, 2021).

On August 10, 2021, Plaintiff filed US Bank’s Second Motion for Order of Contempt against Jzavela-Arethea Dougherty and First Motion for Contempt against Dattajustin Dougherty (Doc. 105) when it discovered that the Occupant Defendants had permanently re-entered the Property, changed the locks the U.S. Marshal had installed, and refused to vacate in compliance with the Court’s July 12, 2021, Order.

On August 23, 2021, the Court held a telephonic hearing on Plaintiff’s Second Motion for Contempt (Doc. 105). The Court granted the motion and ordered Occupant Defendants to “vacate the property in question immediately” (Minute Entry dated August 26, 2021).

On August 31, 2021, the Court held a status conference and again ordered the Occupant Defendants to vacate the Property immediately.

On September 9, 2021, the Court held a status conference and again ordered the

Occupant Defendants to vacate the Property.

On May 14, 2021, Jzavela-Arethea Dougherty and Dattajustin Dougherty gave notice of their intent to appeal the final judgment (Doc. 73). Jzavela-Arethea Dougherty and Dattajustin Dougherty failed to obtain a stay of execution of the final judgment pending appeal in this Court. On August 16, 2021, the Fifth Circuit United States Court of Appeals denied Occupant Defendants' request for stay in the appellate court (Doc. 107). Absent a stay, this Court retains jurisdiction to enforce its judgment and orders.

Having GRANTED two Motions for Contempt, the Court makes the following findings and rulings:

1. On or about May 3, 2021, this Court entered its Order of Sale whereby this Court ordered the Occupant Defendants to leave and vacate the Property permanently within 30 days; and

2. JZAVELA-ARETHEA DOUGHERTY and DATTAJUSTIN DOUGHERTY disobeyed and failed to comply with the May 3 Order of Sale when they remained on the Property and then re-entered it after the federal marshal removed them from it; and

3. JZAVELA-ARETHEA DOUGHERTY and DATTAJUSTIN DOUGHERTY have disobeyed this Court's orders instructing them to vacate the Property, including those on May 3, 2021 (Order of Sale - Doc. 66), July 12, 2021 (oral order), July 14, 2021 (minute entry), August 23, 2021 (oral order), August 26, 2021 (minute entry), August 31, 2021 (oral order) and September 9, 2021 (oral order);

Based on the above, it is **ORDERED** that JZAVELA-ARETHEA DOUGHERTY and DATTAJUSTIN DOUGHERTY immediately, permanently, and fully vacate the Property (including the land on which the improvement on the Property sits). It is further

**ORDERED** that on or after September 23, 2021, the U.S. Marshal is authorized and

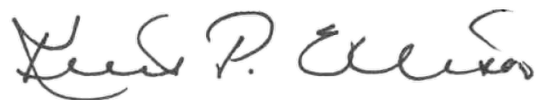
directed to take all actions that are reasonably necessary to bring about the ejectment of JZAVELA-ARETHEA DOUGHERTY and DATTAJUSTIN DOUGHERTY and any other unauthorized occupants from the Property located at 2534 Splintwood Court, Kingwood, Texas 77345. It is further

**ORDERED** that on or after September 23, 2021, the U.S. Marshall is authorized and directed to have free access to the Property located at 2534 Splintwood Court, Kingwood, Texas 77345; to take all actions necessary to preserve the Property; and to return possession of the Property to Plaintiff, including, but not limited to, retaining a locksmith or other person to change or install locks or other security devices on any part of the Property. It is further

**ORDERED** that if JZAVELA-ARETHEA DOUGHERTY and DATTAJUSTIN DOUGHERTY fail or refuse to remove their personal property from the Property located at 2534 Splintwood Court, Kingwood, Texas 77345 prior to September 22, 2021, the personal property remaining on the Property will be deemed forfeited and abandoned by the Order of Sale in this case, and the U.S. Marshal and/or Plaintiff's representatives are authorized to remove any personal property left behind and to dispose of it in any manner they see fit, including throwing said personal property in the trash.

JZAVELA-ARETHEA DOUGHERTY and DATTAJUSTIN DOUGHERTY are further **WARNED** that their continued failure to comply with this Court's orders, including this Order, may result in further sanctions and/or costs being imposed against them.

Signed on this the 16th day of September 2021.



KEITH P. ELLISON  
UNITED STATES DISTRICT JUDGE